

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CRIMINAL APPELLATE JURISDICTION**

**CRI-INTERIM APPLICATION NO. 1209 OF 2025
IN
CR. APPEAL NO. 944 OF 2021**

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1. Hemant Sanjay Rasal
2. Suraj Sanjay Rasal
3. Rupesh Sanjay Rasal
(At present in Satara Jail, Dist. Satara) ... Applicants

Versus

The State of Maharashtra ... Respondent

.....
Mr. Tapan Thatte (through VC) a/w Mr. Qurban Husain Kudle for the Applicants.

Mr. A.S. Shalgaonkar, APP for the Respondent - State.

.....

**CORAM : MADHAV J. JAMDAR &
PRAVIN S. PATIL, JJ.**

DATE : 9th MARCH, 2026.

P. C. :

1. Heard Mr. Thatte, learned Counsel appearing for the Applicants and Mr. Shalgaonkar, learned APP for the State.

2. By the present Interim Application, the Applicants are seeking relief by way of suspension of sentence during the pendency of the Criminal Appeal and pray that the Applicants be admitted to bail. It is

the main submission of Mr. Thatte, appearing for the Applicants, that Applicant No. 1 was arrested on 25th July 2016 and Applicant Nos. 2 and 3 were arrested on 13th July 2016. He submits that the Applicants have been behind bars for almost 10 years. He also points out order dated 11th January 202 passed by this Court in Interim Application No. 3376 of 2021 filed in this Criminal Appeal, wherein liberty was granted to file a fresh application if the Appeal could not be heard for final hearing within a period of one year.

3. On the other hand, Mr. Shalgaonkar, learned APP strongly opposes the Application. He submits that the Applicants are involved in serious crime under Section 302 of the Indian Penal Code and, therefore, Interim Application be dismissed.

4. Before consideration the rival contentions, at the outset, it is required to be noted that Applicant No.1 – Hemant Sanjay Rasal had filed Interim Application No. 3376 of 2021 in Criminal Appeal seeking bail. However, this Court by an order dated 11th January 2023, allowed withdrawal of the said Interim Application with liberty to file a fresh Application for bail, if said Criminal Appeal is not taken up for final hearing within a period of one year. Even after a period of 3 years, the

said Criminal Appeal could not be taken up for hearing and, therefore, the present Interim Application is filed. It is also required to be noted that so far as Applicant Nos. 2 and 3 are concerned, for the first time, they have filed application seeking bail.

5. The prosecution case is set out in paragraph nos. 2 to 5, which reads as under:-

"Few facts of the Prosecution case are as under:-

The informant Machhindra Narayan Patil is a resident of Borkhal, Tal. & Dist. Satara. His two brothers namely, Namdeo and Jalindar are also residing in the same village. The informant used to graze goats within the vicinity of village Borkhal.

2] On 28/06/2016 in between 2.00 to 2.30 p.m., while he was grazing goats in the area known as 'Kolkiche Shiwar', two goats entered in the groundnut crop of Sanjay Jaysing Rasal of same village. The house of Rasal family of village Borkhal is located near the Kolkiche Shiwar. The field of groundnut crop is visible from the house of Sanjay Rasal. Sanjay and Suraj Rasal after seeing the goats, entered in the field, they both rushed towards the field, Sanjay and Suraj started abusing the informant, Suraj by taking stick from the side-by bushes (locally known as "Nirgudi"), assaulted the informant on his back, chest and stomach and also by kicks and fist blows. Due to which, informant sustained injuries. Suraj threw away mobile handset of informant.

3] After this first incident, while informant was returning home by road which is passing through S.T.Bus stop, nephew Rajesh Namdeo Patil met him near S.T.Bus stop, who noticed reddish mark near informant's eye, he inquired about it. The informant narrated the incident of assault by Suraj and Sanjay Rasal to

Rajesh. Thereafter, both returned home.

4] At about 4.00 p.m., the informant and his wife Shobha were present in the house, Rajesh came in. He told them, they should ask Suraj about assault. So, the informant and Rajesh reached S.T.Bus stop, where Village Police Patil Tanaji Laxman Patil was present. Shobha followed them. The informant has showed scars on his body to Tanaji Patil, at that time Rajesh saw Suraj at some distance, so he rushed towards him, accused Suraj Rasal was present in the Square of S.T. Bus stop. Rajesh accosted him, as to why he assaulted uncle Machhindra Patil, whatever loss is caused could have been compensated in terms of money. At that point of time, scuffle took place between Rajesh and Suraj. Village Police Patil Tanaji tried to intervene, but he fell down in the road-side drain. His clothes smeared with mud. So, he returned home to change.

5] Being annoyed, Suraj returned home murmuring, he would see him. Thereafter, accused Sanjay Jaysing Rasal and his three son Suraj Rasal, Hemant Rasal and Rupesh Rasal came on the spot and started assaulting Rajesh. It is alleged that Hemant and Sanjay assaulted Rajesh with sticks on his stomach and back, Suraj Rasal gave blow of iron pipe on his head. In the scuffle, Suraj and Hemant caught hold hands of Rajesh while Rupesh Sanjay Rasal who carried knife, gave blows of it on his stomach, chest, neck and back. Informant, his wife Shobha, his brother's wife Suman, villager i.e. Jaywant Vasant Sapkal and Bapurao Nalwade tried to rescue Rajesh, but accused Sanjay restrained them by flinging stone by the catapult (गलोल) towards them. Due to blows of knife by Rupesh Sanjay Rasal on the neck, chest, abdomen and back, Rajesh sustained severe injuries. He was rushed to Civil Hospital, Satara, where Medical Officer declared him as dead. The informant was also admitted in the Hospital, on 29/06/2016, informant's wife got admitted in the Hospital, as she got shocked because she witnessed horrific incident of murder. Both were indoor patients for some days.”

6. In view of the above, it is relevant to note that the Supreme Court in case of **Shivani Tyagi Vs. State of Uttar Pradesh**¹ has held that factors like the nature of offence held to have been committed, the manner of its commission, the gravity of offence, and also the desirability of releasing the convict on bail are to be considered objectively and such consideration should reflect in the order passed under Section 389, of the Code of Criminal Procedure, 1973.

7. Perusal of the record shows that even as per the prosecution case, the incident has taken place as two goats of the deceased entered into the field of the Applicants and, therefore, the dispute started between the Applicants and informant and the same was escalated to such an extent that the Applicants has killed the deceased.

8. Mr Thatte, learned counsel states that there are no criminal antecedents. Perusal of the record shows that the Applicants are behind bars for almost 10 years and considering the pendency of old Appeals in this Court, Appeal filed by the Applicants is not likely to come up for final hearing in near future.

1 (2024) SCC OnLine SC 842

9. Thus, in the facts and circumstances, the case is made out for suspension of sentence and release of the Applicants on bail during the pendency of Appeal. Hence, we pass following order :

ORDER

[a] The sentence imposed on Applicants by learned Additional Sessions Judge, Satara vide judgment and order dated 30th September 2021 passed in Sessions Case No. 134 of 2016 is suspended till the final disposal of Criminal Appeal No.944 of 2021.

[b] The Applicants be released on furnishing PR bond in the sum of Rs.25,000/- each with one or more solvent sureties of like amount in connection with Sessions Case No. 134 of 2016.

[c] Till the disposal of Criminal Appeal, the Applicants shall report to the Trial Court once a week on every Monday.

[d] The Applicants shall attend this Court when the Appeal is listed for final hearing.

10. Interim application stands disposed of.

[PRAVIN S. PATIL, J.]

[MADHAV J. JAMDAR, J.]